

BUTTE-SILVER BOW

Office of Council of Commissioners

Courthouse

Butte, Montana 59701

RECEIVED

SEP 28 2017

COMMUNICATION

17-509

September 28, 2017

Chief Executive Dave Palmer
Butte-Silver Bow Council of Commissioners
155 W. Granite Street
Butte, MT 59701

RE: Legal Action against the EPA

Chief Executive Palmer and Council of Commissioners:

I am submitting this communication requesting Council research of a funding source to hire outside council to pursue legal action against the Environmental Protection Agency, the State of Montana and possibly British Petroleum/Atlantic Richfield Corporation, demanding Butte-Silver Bow receive the proper cleanup and restoration our community needs and deserves.

I am using wordage from the past proposed Council Resolutions by myself, Commissioners Perdue-Dolan, McDonough and Foley, to highlight my thoughts and reasons for requesting Council's legal involvement:

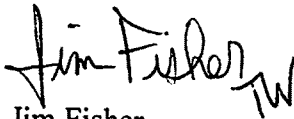
- A responsible cleanup and comprehensive restoration of the historic Silver Bow Creek Corridor, the Butte Hill, the Montana Pole Treatment Plant and Berkeley Pit is essential in moving our community forward. Requesting that said cleanup and restoration is permanent, effective and in the best interest, health and welfare of the citizens of Butte-Silver Bow is essential.
- Responsible cleanup of Silver Bow Creek requires removal of all contaminants in the corridor, including the Parrot, Digging East and Northside Tailings and the Blacktail Berm.
- District Judge Brad Newman has ruled in a successful lawsuit filed by Silver Bow Creek Headwaters Coalition vs. State of Montana that Silver Bow Creek flowing through Butte is a watercourse (a creek) and thus waters of the State of Montana protected by the Montana Constitution.
- Superfund law requires the Environmental Protection Agency to clean a declared Superfund Site to be protective of human health and the environment.
- A responsible cleanup and restoration of the Berkeley Pit, Silver Bow Creek flowing through Butte, the Butte Hill and the Montana Pole Treatment Site are essential for the economic, environmental and social future of Butte, Montana.
- The Superfund decisions made today in Butte will have an impact on the community now and forever. Butte citizens, for themselves and future generations, advocate for a restored natural environment in which to access, recreate, and enjoy clean surface waters in the community.

September 28, 2017
Chief Executive Dave Palmer
Butte-Silver Bow Council of Commissioners
Page two

- Article II, Section 3 of the Montana Constitution, Inalienable Rights, states, "All persons are born free and have certain inalienable rights." They include the right to a clean and healthy environment.
- Article IX, Section 3 of the Montana Constitution states, "All waters within the boundaries of the State are the property of the State, held in trust, for the use of its people."
- Article II, Section 8 of the Montana Constitution requires public participation by its citizens and elected leaders. "The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law."

Council members, I am requesting your thoughts and input on this communication and ask that it be included and discussed at a future Council meeting.

Sincerely,

A handwritten signature in black ink that reads "Jim Fisher" followed by a stylized monogram "JW".

Jim Fisher
Butte-Silver Bow Commissioner
District No. 6

JF/tw